836 of the camp, and thus received the stamp of publicity and recognized usage.[1] Nowadays the restrictions on premarital intercourse are more loosely observed, and the lovers are apparently not punished. [864] Schultze even goes so far as to say that boys and girls often have sexual intercourse while they are still playing children's games, and no special notice of this is taken by their elders.[2] Should pregnancy 848 follow, however, the father of the child is expected to marry the mother. Even if he does not do so, he is responsible for the sustenance of the child while it is being weaned, and has to provide the mother [684] with some cattle or money for this purpose. If he refuses, he is taken before the tribal council and compelled to do so, and may even be flogged. The payments cease when the child has been weaned. It then belongs to the father, and may be taken away by him. Premarital children are said to have the same rights of inheritance from their father as those born in wedlock.[3]

684 Rape is severely penalized. If the victim is a child, the violator, according to Wandres, suffers the death penalty; if she is a virgin, or even a girl who had previously been deflowered, he is thrashed and all his property confiscated; while if she is a married woman her husband has the right to kill him without fear of retaliation. 684 Incest, between either parents and children, brother and sister, or 835 even the children of brothers and sisters (" Geschwister ") is punished by death.[4]

572 838 The occurrence of homosexuality among the Hottentots is denied by both Wandres and Fritsch.[5] Kurt Falk, however, maintains that it is fairly common, among both men and women, and especially among young married women.[6] There exists among the Naman a

[1] Schultze, *Aus Namaland und Kalahari*, 298, 319; cf. Hahn, " Die Nama-Hottentotten," 332.
[2] Op. cit., 309.
[3] Kohler, " Das Recht der Hottentotten," 348; Wandres, " Ueber das Recht der Naman," 669; Vedder, " The Nama," 144, 145.
[4] Loc. cit. Intercourse between direct cousins, here said to be treated as incest, is now apparently no longer condemned, as at the present time they may even marry; while marriage between cross-cousins, also included by Wandres under his definition of incest, was always permitted. Kolb (op. cit., 73) also affirms that incest, by which he means especially intercourse between parents and children, is punished by death; while Hahn, commenting upon the myth relating how the hero-god Haitsi-Eibib committed incest with his mother, says: " The laws and customs of the Namaquas are against incest in any form. In the last thirty years only three cases, and those among the so-called Orlam tribes, have happened. Here, certainly, we have the fact of the contact with civilized races having proved fatal to the morals of the Aborigines. When these cases happened there was throughout Great Namaqualand a general outcry against the criminals; they were punished most severely, thrown out of society, and a gloom cast over the whole tribe to which they belonged " (*Tsuni-||Goam*, 135).
[5] Wandres, loc. cit.; Fritsch, in F. Karsch-Haack, *Das gleichgeschlechtliche Leben der Naturvölker* (1911), p. 133.
[6] " Homosexualität bei den Eingeborenen in Südwest-Afrika," *Geschlecht und Gesellschaft*, xiii (1925–6), 209–10.

681 cuts with a stick until ultimately, in the olden days, the death
[685] sentence was decided upon. At the present time, the matter is then referred to the law-courts. In the case of corporal punishment the sentence was usually based on the principle of: Eye for an eye and tooth for a tooth—unless the parties
[682 agreed upon another form of indemnity. Murder, high
687 treason, attempted murder of the chief and incest were always
684 punished with death according to the deposition of the old people. For the execution of corporal punishment a bailiff was appointed and fines were collected by the magistrate.

673 6. Generally they regard disrespectful behaviour towards the old, murder, homicide, bodily injury, theft, illegitimate impregnation and treason as punishable offences.

Lies and perjury are also deemed improper, but are not subject to legal punishment. In the same way adultery is
● [835] not punishable. Incest becomes a case for the law only when the father refuses to be responsible for the sustenance of the child during its first years, namely, the time when it needs the nursing of the mother. As soon as the child is five years
[838] of age, the father takes it and the payments, which as a rule were in cattle and to-day are in money, cease.

It cannot, however, be said that these forms are valid everywhere where there are still unbroken Nama tribes ruled by a chief; and although they still know their old laws, they do not avail themselves of them in every case.

421 7. The proprietary rights of the old Nama were not extensive, and those of the present generation are still more limited as a result of the fact that they hardly possess any lands. Generally speaking we may say that the individual possesses nothing but is the usufructuary of what the family possesses. This even includes clothes and things for daily use.

422 Under personal property one understands the possession of cattle. A child even may receive one or more goats from his father and he uses their milk. He has the right to milk such goats without permission and their progeny are his property. Where natural conditions make it possible every person—man, wife, child—possess a few goats, sheep or even cattle. When these are to be sold it becomes manifest that this personal property continues to be regarded as family property, because in such cases, the whole family and not the individual decides whether there should be a sale or not.

423 The land or their tribal territory can under no circumstances become the property of an individual, neither is it the property of the chief. He has not got the right to dispose of or to give away anything of the territory which, in all respects, is regarded as common tribal property, unless the money received be divided amongst the families of the tribe, after they have consented to such a sale. The boundaries of a tribal territory, however, are not fixed. All lands and grounds where members of a tribe have previously grazed

14:Hahn L-5 (ca. 1870-1880) 1881 FX13 Hottentot FX13

are rich and possessed of plenty of cattle and sheep. 776
They all promise immortality to men, and fight with the bad beings; they kill the enemies of their people. All three can alter their shape; they can disappear and reappear.

Heitsie-ibib, however, is full of tricks, and his character 773
is not altogether blameless. The sacred legend accuses 835
him of the same crime as that for which Hippolytus and Œdipus have become famous.

It is impossible to deny that the story of Heitsie-ibib committing rape on his mother, taken in its literal meaning, is very repulsive, and not at all in accordance with the code of morals and decency among the Khoikhoi. The laws and customs of the Namaquas are against incest in any form. In the last thirty years only three cases, and those among the so-called "Orlam tribes, have happened. Here, certainly, we have the fact of the contact with civilized races having proved fatal to the morals of the Aborigines. When these cases happened there was throughout Great Namaqualand a general outcry of indignation against the criminals; they were punished most severely, thrown out of society, and a gloom was cast over the whole tribe to which they belonged.

The myth of Heitsi-eibib and his mother is certainly not 773
of a recent date; it could not even have been formed at the time when those abstract words "humanity, purity, truth, faith, self-respect, friendship, love, decency," and many more of those beautiful abstract expressions with which the Khoikhoi abounds, were formed. It is one of the oldest mythological relics brought down to us, like an erratic block, and shows that there was a period, below the first layers of culture, when the feelings of morals and decency among the Hottentots were still a *tabu wanbolu*, similar to a period in the primitive history of our own race.

The Namaqua, from whose lips I gathered that legend, told me that when he heard it from his grandfather, the